

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE:) MDL No. 2492
)
NATIONAL COLLEGIATE ATHLETIC) Master Docket No. 16 C 8727
ASSOCIATION STUDENT-ATHLETE)
CONCUSSION INJURY LITIGATION-) Judge John Z. Lee
SINGLE SPORT/SINGLE SCHOOL) Magistrate Judge David M. Weisman
(FOOTBALL).)
) This Document Relates to N.D. Ill. Docket
) No. 14-cv-9322
)

**CLASS PLAINTIFF JULIUS WHITTIER'S
MOTION FOR APPOINTMENT OF THE HONORABLE
DWIGHT E. JEFFERSON AS PLAINTIFFS' CLASS LIAISON COUNSEL**

COMES NOW, Class Plaintiff Julius Whittier and files this his Motion requesting that his counsel, the undersigned, Hon. Dwight E. Jefferson, be appointed as Plaintiffs' Class Liaison Counsel pursuant to the Court's Case Management Order No. 4, "Single Sport/Single School" Cases (Doc. # 291), and in support of his motion, the Plaintiff would show the Court as follows:

I.

By its Case Management Order No. 4 in the above-referenced matter, the Court directed Plaintiffs' and Defendants' counsel to confer and seek a consensus on the selection of candidates for the position of Liaison Counsel for each group. In that regard, and in compliance with the Court's Order No. 4, the undersigned Plaintiff's counsel conferred with counsel designated by the Lead Objector Counsel Jay Edelson as the contact for this purpose, Rafey Balabanian. After consultation with Mr. Balabanian, notwithstanding the undersigned counsel's active involvement in the "Original Nationwide Class Cases," MDL, Master Docket No. 13 C 9116, *In re: National Collegiate Athletic Association Student-Athlete Concussion Injury Litigation*, as one of two objectors to the proposed preliminary class settlement of that case, Edelson would not agree to

submit the undersigned counsel to the court for consideration as Liaison Counsel in the above-referenced MDL No. 2492 Master Docket No. 16 C 8727, thereby prompting undersigned counsel to file this Motion.

II.

COUNSEL FOR WHITTIER HAS BEEN AN ACTIVE PARTICIPANT AND OBJECTOR IN THE ORIGINAL NATIONWIDE CLASS CASES

The undersigned counsel would submit to the Court that not only is he eminently qualified by experience and tenure to serve the Court and Class Plaintiffs as Liaison Counsel, but that his active involvement in the “Original Nationwide Class Cases” as an objector has contributed significantly to the creation of the current personal injury MDL and putative class action. The undersigned counsel has attended and participated in all Court hearings since the transfer of Class Plaintiff Whittier’s case to the “Original Nationwide Class Cases” MDL and the filing of his objection to the preliminary settlement on October 23, 2014 (Doc. #93 and 94). Moreover, the undersigned counsel has filed numerous motions and memoranda in the “Original Nationwide Class Cases including Doc. #s 118, 121, 122, 127, 130, 132, 133, 146, 172, 173, 254, 255, and 256, from October 23, 2014 through March 3, 2016. All evidence of undersigned counsel’s active participation as an objector to the preliminary class settlement and proponent of the personal injury class represented by the “Single Sport/Single School (Football)” class action.

The undersigned counsel’s work in identifying and investigating the potential claims of persons similarly situated with Plaintiff Whittier, and his active objection to the “Original Nationwide Class Cases” should be considered by this Court in appointing class Liaison Counsel.

III.

COUNSEL FOR WHITTIER HAS EXPERIENCE IN CLASS ACTION/COMPLEX LITIGATION

The undersigned counsel has extensive experience in class actions, mass torts, and other complex litigation in over 30 years as a practicing attorney and State District Judge in Houston, Harris County, Texas. The undersigned counsel's experience in class action includes serving as one of the Plaintiff's counsel in consumer class action litigation in Texas¹ and California.² In addition, the undersigned counsel has served as Plaintiff's counsel in mass tort cases in Florida³ and Louisiana⁴ involving thousands of Plaintiffs. In addition, as a trial judge, the undersigned counsel presided over a mass tort docket that included thousands of asbestos and breast implant cases. The undersigned counsel also served as defense counsel for a major boiler manufacturer in asbestos litigation filed in Texas, and represented this client in the first mass tort asbestos case to go to trial in Dallas County, Texas in 1993. The undersigned counsel has extensive experience in handling the types of claims asserted in this action. Attached hereto as **Exhibit 1** is the curriculum vitae of the undersigned counsel which details his experience in mass tort, class action and complex litigation.

¹ Nos. GN-001347 and D-1-GN-11-000854; *Gilberto Villanueva Jr. v. Texas Farmers Insurance Company, et al.*, In the 53rd Judicial District Court of Travis County, Texas.

² *Fogel v. Farmers Group, Inc., et al.*, Case No. BC 300142, Superior Court of the State of California for the County of Los Angeles.

³ *Jane Doe, et al. v. City of Jacksonville*, In the Circuit Court, Duval County, Florida.

⁴ *Dottie Adams, et al. v. Joseph Grefer, et al.*, 24th Judicial District Court for the Parish of Jefferson, State of Louisiana; No. 624-278, Division K; and *Catherine M. Bernard, et al. v. Joseph Grefer, et al.*, C.A. No. 14-887, Section "L"(2), In the United States District Court for the Eastern District of Louisiana.

IV.

COUNSEL FOR WHITTIER WILL BRING PERSPECTIVE AND DIVERSITY TO PLAINTIFFS' CLASS COUNSEL TEAM

The undersigned counsel, as a former college football player and captain of the University of Texas football team in 1978, and recipient of the Outstanding Lineman Award in the 1979 Sun Bowl, along with his experience and knowledge in class action and complex litigation as an attorney, State District Judge, mediator and arbitrator provides him with unique perspective and resources that can benefit the Class and contribute to the adequacy of representation of the Plaintiffs' Class.

The undersigned counsel is a certified mediator with experience mediating personal injury and mass tort cases involving personal injuries. Additionally, the undersigned counsel is a Panelist on the American Arbitration Association's Class Action/Mass Tort/Complex Litigation, Panel. In that capacity, the undersigned has arbitrated mass tort and complex litigation cases involving personal injury claims for environmental exposure to thousands of plaintiffs. The undersigned counsel's background and experience working on mass torts and class actions, combined with his experience as a college football player will enable him to bring a unique perspective, and genuine diversity to the representation of the personal injury class.

V.

COUNSEL FOR WHITTIER HAS THE RESOURCES TO COMMIT TO SERVING AS PLAINTIFFS' CLASS LIAISON COUNSEL

The undersigned is Of Counsel at Coats Rose, P.C. principal office in Houston, Texas. Coats Rose, P.C. is a firm of 104 lawyers (see **Exhibit 2**). The firm also has offices in Dallas, Austin, San Antonio, and New Orleans. The firm was established in 1989 and has a nationally recognized construction law practice, and well respected litigation section, including litigation of mass tort, environmental, and complex construction cases. The filing of this class action was

authorized by the firm's management committee and reflects the firm's commitment of the resources necessary to represent the class. The firm has the information technology and staff necessary to enable the undersigned counsel to fulfill the duties of Liaison Counsel as set forth by the Court in Case Management Order No. 4.

CONCLUSION

The undersigned counsel's active participation in the "Original Nationwide Class Cases," as one of only two objectors of record to the preliminary class settlement, along with his experience as a trial judge, lawyer, arbitrator, and former college football player, combined with his law firm's resources and commitment to this litigation, clearly shows him to be qualified to fulfill the duties of Plaintiffs' Liaison Counsel in this case as set forth in "Case Management Order No. 4 Cases."

PRAYER

WHEREFORE, PREMISES CONSIDERED, the Plaintiff Julius Whittier requests that the Court appoint the undersigned counsel Dwight E. Jefferson as Plaintiffs' Class Liaison Counsel to represent the interests of the plaintiffs' class in the above-styled and numbered cause, and for any and all other relief to which he is justly entitled in law and equity.

Respectfully submitted,

/s/ Dwight E. Jefferson

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed electronically via CM/ECF, which caused notice to be sent to all counsel of record on this 7th day of October, 2016.

/s/ Dwight E. Jefferson

Dwight E. Jefferson